

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 594 of 1996

in

SPECIAL CIVIL APPLICATION NO 3787 of 1996

BB JOSHI **OFFICE SUPERINTENDENT**

Versus

STATE OF GUJARAT

For Approval and signature of :-

The Honourable the Chief Justice G.D.Kamat

A n d

The Honourable Mr. Justice C.K. Thakkar.

1. Whether Reporters of Local Papers may be allowed to see the judgment? - Yes.
2. To be referred to the Reporter or not? - No.
3. Whether their Lordships wish to see the fair copy of judgment? - No.
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder? - No.
5. Whether it is to be circulated to the Civil Judge? - No.

Appearance:

MR ANANT S DAVE for Petitioner

MR DA BAMBHANIA for Respondent No. 1

SERVED BY DS for Respondent No. 2
SERVED BY RPAD for Respondent No. 3

CORAM : THE CHIEF JUSTICE G.D.KAMAT and
Mr.Justice C.K. Thakkar

Date of Judgment : 16/08/96

ORAL ORDER : (Per G.D. Kamat, C.J.)

Admit. By consent, to be heard forthwith.

Mr.D.A. Bambhaniya waives service of notice of admission on behalf of respondent No.1.

Appellant joined the service in the Forest Department as a Clerk, sometime in the year 1961. In October, 1972, he was promoted as Accountant. At some stage, he was promoted and posted as Office Superintendent in the Office of the Deputy Conservator of Forests, Surendranagar in the pay scale of Rs.1640-2900. By order dated 29th November, 1995, the appellant, at that time working as Office Superintendent to the Conservator of Forests, Research and Working Plan Circle, Vadodara, was absorbed as Office Superintendent in the grade of Rs.2000-3200 and posted in the Community Forestry Project Section of General Direction Division, Gandhinagar. It is common ground that without hearing the appellant, by the order dated 16th May, 1996, the Principal Chief Conservator of Forests made an order-cum-transfer, under which the appellant is transferred and posted as Office Superintendent in the grade of Rs.1640-2900 in the Office of Deputy Conservator of Forests, Social Forestry, Jamnagar. Being aggrieved by the impugned order of reduction of his grade, the appellant instituted Special Civil Application. The learned single Judge, by the impugned order dated 24th May, 1996, summarily rejected the Special Civil Application on the ground that the appellant has alternative remedy by way of an appeal. The present appeal is directed against the impugned order of the learned single Judge.

The appellant, having once been absorbed in the grade of Rs.2000-3200 as Office Superintendent, it is inconceivable that the appellant's grade could be reduced without hearing the appellant. We are, therefore, unable to sustain the impugned order dated 16th May, 1996,

whereby the grade of the appellant has been reduced without hearing him. Hence, the impugned order is quashed and set aside. It is not necessary to go into any other grounds.

Appeal is allowed and rule in the original petition is made absolute to the extent indicated. There shall be no order as to costs.

(apj)